

## **REMARKS**

In response to the Office Action dated January 24, 2007, claims 65, 66, 69, 73, 94 and 96 have been amended. No new matter has been added. Reexamination and reconsideration of the claims as requested is respectfully requested.

## **Drawings**

Applicants note that the drawings were objected to under 37 C.F.R. §1.83(a) as failing to show every feature of the invention as specified in the claims. Specifically, the Examiner has stated that the “first surface”, “a distal portion”, “said conductive probe arms in coplanar relationship with said first surface of said supporting body”, “an insulating spacing”, “a first conductive layer positioned on said multitude of conductive probe arms” and “a second conductive layer acting as said electrodes” must be shown or the feature(s) canceled from the claim(s). Applicant has the following comments regarding the drawings objection.

“First surface” is shown in the figures as the top surface of the supporting body and denoted the reference numeral 16.

“A distal portion” is the portion of the probe arms freely extending from the supporting body.

“Co-planar” is shown in Figs. 3 and 4, where the surface of the supporting body 12 is co-planar with the underside of the arms 14a-14d.

“An insulating spacing” is the spacing between the probe arms and the guarding electrodes and the probe arms, which is clearly seen in Fig. 6.

“A first conductive layer” is the layer 18 on top of the arms 14a to 14d.

“A second conductive layer” is the layer on the supporting body between the probe arms shown in Fig. 6. The layer has not been given a reference numeral.

Applicants assert that all features of the claimed invention are shown in the drawings, and that the drawings need not be amended.

### **Claim Rejections – 35 USC § 112**

In paragraph 3 on page 3 of the Office Action, claims 65, 66, 69, 70, 72-83, 87-91 and 140 are rejected under 35 U.S.C. § 112 first paragraph as failing to comply with the written description requirement

“A distal portion” is the portion of the probe arms freely extending from the supporting body. This limitation is not new matter, as it is already present in the claims, in, for example, claim 65.

Applicant asserts that the limitation of a “distal portion” is not new matter, and should not be rejected under 35 U.S.C. U.S.C. § 112 first paragraph as failing to comply with the written description requirement.

### **Claim Objections - Informalities**

In paragraph 4 on page 4 of the Office Action, claims 65-66, 69-70, 72-83, 87-91, 94-121 and 140 are objected to because of the following informalities.

The Examiner notes that in Claims 65, 66, 69, 73-94 and 96 a “coplanar relationship between the conductive probe arms with said first surface of said supporting body” is recited. It appears the relationship between the conductive probe arms and the first surface of the supporting body is *parallel* instead of coplanar. The definition for coplanar in Webster’s Dictionary is “Laying or occurring in same plane”. It

appears by looking at the figures, that these elements are not in the same plane but are in a “parallel relationship”.

Accordingly, claims 65, 66, 69, 73, 94 and 96 are amended to replace the “coplanar” relationship with a “parallel” relationship. There is no change in the scope of any of these claims due to this amendment. No new matter is added.

The Examiner notes that Claim 94 can be interpreted that “a second multitude of conductive guarding electrodes” and “a second conductive layer acting as said electrodes” are the same elements or two different elements. If Applicant intended to claim that they are the same, Applicant is required to clearly state so.

Applicant asserts that in claim 94, the second conductive layer does indeed form the second multitude of conductive guarding electrodes.

Claims 70, 72, 74-83, 87-91, 95, 97-121 and 140 variously depend from claims 65, 66, 94 or 96 and are objected to for the same reasons. The Applicants respectfully traverse this rejection, but have amended the application to overcome the objections. It is believed that all claims comply with 35 U.S.C. § 112.

#### **Claim Rejections – 35 USC § 102**

In paragraph 6 on page 5 of the Office Action, claims 65-66, 69-70, 72-76, 82-83, 91, 94-107 and 140 are rejected under 35 U.S.C. §102 (b) as being anticipated by Luthi, et al. (US 4,329,642). The Applicants respectfully traverse this rejection.

The Examiner, in paragraph 6, states that the probe arms extending away from the supporting body can be construed identical to the arms of Luthi which extend over a cavity formed in the interior of the supporting body. However, a cavity as disclosed in

Luthi is not an opening, and Applicants assert that the probe arms in Luthi do not extend away from the supporting body, as stated by the Examiner.

Further, the Examiner asserts that the elements with reference to numeral 48 are elements similar to the “guarding electrodes”. From col. 3, line 32, it is clear that the raised portions 48 are part of the supporting body and are not electrodes. If the elements 48 were electrodes, i.e. carry or be able to carry an electrical current, the entire structure would be a conductor and thus it would not be possible to have electrical signals in one probe arm without mixing the signal with signals in other probe arms. In other words, if elements 48 of Luthi were electrically conductive, the device of Luthi would fail to operate correctly.

In addition, although it is not directly stated which material is used for the supporting body, but the element 40 is called “carrier” and with reference to the prior art in Luthi shown in Fig. 1, the carrier 12 is described in col. 2, lines 43-45 as being made of injection moulded plastics, which is not conductive and cannot form any “electrode”.

As a result, elements 48 of Luthi cannot be “guarding electrodes,” as recited in claims 65, 66, 94 and 96.

Dependent claims 69-70, 72-76, 82-83, 91, 95, 97-107 and 140, which are dependent from independent claims 65, 66, 94 and 96, were also rejected under 35 U.S.C. §102(b) as being unpatentable over Luthi. While Applicant does not agree with the particular rejections to these dependent claims, it is believed that these rejections are moot in view of the remarks made in connection with independent claims 65, 66, 94 and 96. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims

from the cited references. Therefore, dependent claims 69-70, 72-76, 82-83, 91, 95, 97-107 and 140 are also in condition for allowance. Reconsideration, allowance, and notice to that effect are respectfully requested.

### **Claim Rejections – 35 USC § 103**

In paragraph 8 on page 12 of the Office Action, claims 77-81, 87-90 and 108-119 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Luthi, et al. (US 4,329,642); and in paragraph 9 on page 13 of the Office Action, claims 120 and 121 are rejected as being unpatentable over Luthi, et al. (US 4,329,642) in view of Doris, et al. (US 5,383,354). The Applicants respectfully traverse this rejection.

As stated above, Applicant asserts that is not possible to interpret the elements 48 as electrodes of any type. The body 40 of Luthi cannot be electrically conductive and the raised portions 48 cannot be considered as “guarding electrodes”; if they were, then the device of Luthi would fail to operate as disclosed.

The combination of Luthi and Doris fails to remedy the deficiency of Luthi, in that Luthi does not operate as disclosed if raised portions 48 are “guarding electrodes”, as recited by claims 65, 66, 94 and 96. As a result, independent claims 65, 66, 94 and 96 are not obvious over Luthi in view of Doris.

Dependent claims 77-81, 87-90 and 112-121, which are dependent from independent claims 65, 66, 94 and 96, were also rejected under 35 U.S.C. §103(a) as being unpatentable over Luthi or over the combination of Luthi and Doris. While Applicant does not agree with the particular rejections to these dependent claims, it is believed that these rejections are moot in view of the remarks made in connection with independent claims 65, 66, 94 and 96. These dependent claims include all of the

limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. Therefore, dependent claims 77-81, 87-90 and 112-121 are also in condition for allowance. Reconsideration, allowance, and notice to that effect are respectfully requested.

### **CONCLUSION**

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. The amendments clarify the patentable invention without adding new subject matter. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Michael B. Lasky at (952) 253-4106.

Respectfully submitted,

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